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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,558	11/10/2003	Jack Tucker		5497

7590 12/01/2004

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EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,558

Applicant(s)

TUCKER ET AL.

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The serial number of the parent application noted by the applicant is incorrect, the number should be --10/228,740— not 10/288,740. An application cannot be both divisional and continuation-in-part. As noted from the new matter in the specification of this application number 10/705,558, the application will be considered as continuation-in-part. The subject matter not disclosed in the original disclosure will not be afforded the priority date of the parent application of November 6, 2002, but that of the filing date of this application.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the frame has a channel or tube extending through it" in claim 8 and "a low-profile implant impression transfer post in a dental implant, wherein the low-profile implant impression transfer post has a buccal projection configured to project toward a buccal wall of an appropriately configured impression tray" and "the frame of the tray is configured and arranged to be attachable to the low-profile implant

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transfer post” in claim 18 must be shown or the feature(s) canceled from the claim(s). **No new matter** should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 1, 10, and 18 are objected to because of the following informalities: in claims 1, 10, and 18, “the” before patient’s should read –a—and “mouth” should read --oral cavity--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 4 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by "the chemical is an adhesive" in that application of the chemical facilitates curing.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 5, 7, 9-13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singer et al. (6,149,426) in view of Simmen et al. (5,636,985). Singer et al. disclose a method of taking a dental impression comprising selecting an arch impression tray comprising a frame and a member supported on the and integral with the frame, applying a quantity of immobilizing agent to the frame, wherein the immobilizing agent is not the impression material, applying an impression material to the membrane, placing the tray in a patient's oral cavity; allowing the impression material to cure sufficiently and removing the tray from the cavity; however, they do not show impression material to both sides of the membrane. Simmen et al. teach impression material apply to both sides of a dental impression tray (column 6 line 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tray of Singer et al. to apply impression material to both sides of the membrane in order to take impressions of both the upper and lower portion of a patient's teeth and mouth and concurrently provide the impression of the relative positions of the upper

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and lower teeth during a bite in view of Simmen et al. Singer et al. show the immobilizing agent curable by light, heat, moisture, and air (column 3 line 29). Singer et al. show the immobilizing agent of plastic material (column 3 line 34).

9. Claim 8 is rejected as understood, under 35 U.S.C. 103(a) as being unpatentable over Singer et al. in view of Simmen et al. and further in view of Trichas (6,641,393). The modified method of Singer et al. and Simmen et al. shows the limitations as described above; however, they do not show the frame having a channel or a tube. Trichas teaches a dental tray comprising a tube 200 affixed to the frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method to further include a frame with the tube of Trichas in order to have a tray with a material delivery system in view of Trichas.

10. Claims 4, 6, 14, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singer et al. in view of Simmen et al. Singer et al. disclose a dental tray utilizing an immobilizing agent as described above; however, they do not show the immobilizing agent comprising adhesive. It would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention was made as to the specific immobilizing agent being other than a curable material in that the specification states that any adhesive or other material that undergoes transition from a deformable state to a rigid state could be used. It would have been an obvious matter of choice to one of ordinary skill in the art as to inserting a low-profile impression transfer post in a dental implant that affixes to the frame of the tray as a step of taking a dental impression, as it is not adequately described in the specification nor shown in the drawings.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gittleman (6,213,773) is cited to show the state of the art with respect to method of using an impression transfer post.

12. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Patent Examiner